

No. 12-1666

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA,

)

Plaintiff-Appellee,

)

v.

)

KEYON LADON GIBSON,

)

Defendant-Appellant.

)

FILED
Jan 10, 2013
DEBORAH S. HUNT, Clerk

O R D E R

Before: BATCHELDER, Chief Judge; COLE and GIBBONS, Circuit Judges.

Defendant Keyon Gibson appeals his conviction of possession of a firearm by a felon.

Gibson and the government jointly move for a remand to the district court for resentencing.

At sentencing, Gibson was found to be an Armed Career Criminal under 18 U.S.C. § 924(e) after the district court determined that his criminal history included three serious drug offenses. These offenses were two prior adult convictions for delivery or manufacture of cocaine and a juvenile adjudication under state law for possession with intent to deliver cocaine. The government now concedes that Gibson's state juvenile adjudication does not qualify as a serious drug offense for the purposes of § 924(e). The parties jointly move for a remand to permit the district court to consider the government's position and to resentence Gibson accordingly.

In light of the concession by the government and the agreement of the parties, a remand for resentencing is warranted. The joint motion is **GRANTED**, the judgment is vacated, and the case is remanded to district court for resentencing.

ENTERED BY ORDER OF THE COURT



Clerk

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

Deborah S. Hunt
Clerk

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Re: Case No. 12-1666, *USA v. Keyon Gibson*
Originating Case No. : 1:11-cr-00301-1

Dear Sir or Madam,

The Court issued the enclosed (Order/Opinion) today in this case.

Sincerely yours,

s/Bryant L. Crutcher
Case Manager
Direct Dial No. 513-564-7013

cc: Ms. Tracey Cordes

Enclosure

No mandate to issue